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IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7510 of 2007

ISPL Industries Ltd. & Anr. .. Petitioners

versus

M/s.Vinod Engineering Works & Anr. .. Respondents

...

Mr.D.H. Mehta i/b M/s.S. Pathak & Co.for the petitioners.

CORAM : S.B. MHASE AND
D.G.KARNIK, JJ

DATED : 11th October 2007

P.C.:

. By this petition, the petitioners challenge the judgement and decree passed by the Civil Judge, Sr. Division, Thane in Special Civil Suit no.80 of 2001.

2. In our view, the Writ Petition is totally misconceived. The petitioner has a remedy by way of an appeal against the judgement which is provided under section 96 of the Code of Civil Procedure. Instead of availing of the said remedy, petitioners seek to challenge the decision by means of a Writ

Petition which we decline to entertain.

3. Learned counsel for the petitioner submits that the judgement passed by the learned Civil Judge is totally erroneous and without jurisdiction in as much as the petitioner company was declared as a sick company under Sick Industrial Companies (Special Provisions Act, 1985 and therefore Civil Court inherently lacked jurisdiction to entertain the suit. The decree is therefore without jurisdiction. This ground also can be taken in an appeal against the impugned decision by the petitioner.

4. In our view, Writ Petition is not an appropriate remedy. Writ Petition is accordingly rejected summarily.

(D.G. KARNIK, J) (S.B. MHASE, J)